

## qrulepubliccomments

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**From:** Pamela McGann [pmcgann@atac.ca]  
**Sent:** Tuesday, February 28, 2006 4:43 PM  
**To:** qrulepubliccomments  
**Cc:** Brooks, Jennifer; susan\_courage@phac-aspc.gc.ca  
**Subject:** CONTROL OF COMMUNICABLE DISEASES

**Importance:** High

**Attachments:** Communicable Diseases.PDF



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Diseases.PDF (358..

February 28, 2006

Centers for Disease Control and Prevention Division of Global Migration and Quarantine  
ATTN: Q Rule Comments  
1600 Clifton Road, NE, (E03)  
Atlanta, GA, 30333  
U.S.A.

cc: Jennifer Brooks  
Susan Courage

Attached is a letter from Cliff Mackay, President of the Air Transport Association of Canada addressed to your department.

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Via e-mail: [qrulepubliccomments@cdc.gov](mailto:qrulepubliccomments@cdc.gov)

**Re: Control of Communicable Diseases**

The Air Transport Association of Canada (ATAC) represents over 200 member commercial aviation providers operating in Canada, including major American and Canadian airlines. Our membership has expressed strong reservations about the above-referenced NPRM and has asked us to submit a Canadian industry perspective on the matter, which we now present, respectfully, for your consideration.

**BACKGROUND**

As you may know, scheduled transborder commercial aviation between our two countries is robust and growing. Indeed, the Government of Canada estimates that the Canada-U.S. air transportation market generated approximately 18.6 million passenger trips in 2004, making it one of the largest bilateral air transportation markets in the world.

With this perspective in mind, you can appreciate how the CDC's NPRM would be of significant interest to Canadian air service providers. It is precisely because of the importance of this relationship and our shared objectives that Canada has an unmatched record of cooperative engagement on matters of priority to the Government of the United States, be they commercial, safety or security related.

Beginning in the immediate aftermath of 9/11 and continuing into the present, Canada has responded dramatically to the international need for increased vigilance in all matters related to air security. You will find upon consultation with your colleagues at the Transportation Safety Administration (TSA), the Department of Transportation (DoT), Customs and Border Patrol (CBP) and the Department of Homeland Security (DHS) that Canadian carriers operating into the United States have an excellent track record of compliance and responsiveness to the regulatory regime in your country.

Similarly, Canadian carriers have an extensive and experienced background in dealing with matters pertaining to disease control. When the Severe Acute Respiratory Syndrome (SARS) crisis dramatically hit our own country in 2003, Air Canada and others responded to numerous emergency orders and ad-hoc operational requests from our own federal

department of health (Health Canada) efficiently and effectively. As you may recall, numerous measures were put in place on a temporary basis which helped to limit the impact of SARS on the larger society, as a whole, including:

- the distribution of passenger self-test health check sheets;
- providing instructions to check-in agents on symptomatic signs to decide on prevent-boarding orders; and,
- the establishment of Health Canada passenger inspection stations at arrivals areas of key international flights.

This crisis was particularly instructive for our members in several areas related to passenger facilitation and regulatory compliance. The most critical lesson learned was that there can be no substitute for more effective and inclusive preparatory planning initiatives by government in order to achieve the desired outcomes of all stakeholders. Airlines and their passengers benefit – both from facilitation and operational perspectives – when they are engaged early and substantively in crisis management planning. ATAC, therefore, commends the CDC for the foresight involved in this initiative and its openness to receiving input.

We offer the following observations in order to clarify some operational difficulties presented by the NPRM and commit ourselves to working with you to improve upon any proposals you may wish to address.

#### *SPECIFIC CHALLENGES WITH CDC NPRM*

The passenger information provisions contained in the NPRM are the most challenging aspect of this initiative from three distinct perspectives:

- the amount of data being requested;
- the proposed method of capturing the data; and
- the data retention and transmission requirements.

As currently drafted, parts 70 & 71 of the NPRM propose to broaden the number of passenger data elements being solicited by carriers to include traveling companions, emergency contact, e-mail address, current home address, return flight and telephone number. The other data elements defined within the NPRM are already provided by carriers to the CBP through the transmission of Advanced Passenger Information System (APIS) data. Clearly then from an efficiency perspective, CDC would do well to work through CBP to achieve its own objectives.

In the pursuit of these additional data elements, however, the CDC poses significant challenges for carriers from an operational, technological and compliance perspective.

Carriers have invested significantly in technology platforms to conform with UN/EDIFACT protocols; the accepted international standard for passenger data transmission. The CDC

proposal, if it were to proceed, would require a significant, worldwide, overhaul of the UN/EDIFACT standard. Moreover, it is not entirely clear that – even if the fiscal and human resources necessary to pursue such an effort could be marshalled – a workable solution could be achieved (and, if so, in time) to meet the CDC requirements.

A further complication stems from the seemingly voluntary nature of passengers' obligations to provide these data elements to carriers. Does it really make sense to oblige carriers to invest significant resources to "solicit", store and transmit this data if, ultimately, passengers are not obliged to provide it? The lack of compliance requirements placed on passengers, while laudable from a privacy perspective, undermines the stated objective of the proposal.

The additional requirements for carriers to store these data elements for sixty days and to provide it to CDC within twelve hours of request pre-supposes that all carriers flying to/from the United States have significant data storage/retrieval capabilities; an assumption which does not reflect current reality. Even Canada's largest carrier, Air Canada, does not invest in technology platforms based on their data storage capability.

Ours is a dynamic business, with bookings, cancellations and numerous other individualized flight transactions being conducted every minute of the day. In the development of IT platforms, carriers have invested in systems which maximize security and 'transaction speed' over data storage capabilities. Put simply, there has never been a financial imperative for commercial air service providers to store passenger data for extensive periods of time so they have not developed platforms to do so.

This concern is amplified when considering the realities of smaller operators. In fact, a significant number of smaller carriers on both sides of the border provide much-needed regular scheduled cross-border service; often involving secondary markets. These carriers, including significant Canadian operators Air Georgian and Canjet, simply may not have the technology platforms to comply with these particular data storage and transmission provisions. Clearly, in an environment created by the requirements of the current NPRM, the viability of many smaller market Canada-US commercial air services may be thrown into question.

Although each of these carriers (and indeed all carriers operating into the United States) already comply with U.S. CBP requirements for some passenger data elements, the additional strain created by CDC's proposals suggests that a more productive result could be achieved through coordination of regulations and resources amongst the various U.S. agencies involved in aviation regulations.

ATAC, along with the Air Transport Association of America (ATA) and the International Air Transport Association (IATA) have long promoted a 'one-stop-shopping' approach for government agencies seeking passenger or operational data from carriers. From our perspective, member carriers are legitimately concerned about the impact on the integrity of their systems from numerous data 'pulling' or 'pushing' exercises to and/or from various government organizations. From your own perspective we would respectfully suggest that

there are numerous efficiency gains to be had in coordinating your efforts through CBP, with whom carriers have already invested significant sums to ensure seamless compliance with their data requirements.

In addition to these concerns, ATAC also would like to offer a few brief comments on other elements in the NPRM which do not reflect the business realities of commercial air service providers.

1. *Envisioned data collection methods do not reflect modern business realities either at Point of Sale (POS) or Point of Departure (POD).* At POS, CDC should note that there is no universal standard for data transmission amongst the various brokers, agents and carriers making retail sales. Indeed competitive pressures – especially within the internet marketing environment – amongst the players can result in limited communications between them. At POD, even though CDC estimates a small additional time burden (1.5 minutes) to process the necessary data elements, it still runs counter to the trend away from non-operational customer interaction at airports. Web check-in and other developments seek to minimize airport infrastructure and labour costs. The CDC proposal would entrench non-value-added and costly business practices.
2. *Canadian Privacy Legislation requirements would add to the burden (process and cost) imposed by the NPRM.* Under Canadian law, customers in commercial transactions have a right to request all personal data collected and stored as a result of commercial transactions. Moreover, the law provides a reverse-onus protection to customers by requiring their explicit consent prior to their data being collected and used for any purpose other than the commercial transaction at hand. For these reasons, the CDC's data storage requirements would also require investment in legal and human resources to protect and provide the personal data on request.
3. *Reporting death or illness on-board aircraft requirements should conform to international standards and minimize the subjective judgment required of airline personnel.* Current proposals would too broadly require reporting by air crew of persons who are simply categorized as "ill". Given the potential liability and punitive issues (i.e. in order to assess if a person is ill, the flight attendant will need to question the passenger concerning his or her health, which may be contrary to the principles of the Air Carriers' Access Act and the Americans with Disabilities Act), CDC should rightfully amend this requirement to more specifically define the symptoms and circumstances which would trigger reporting requirements. Indeed, the International Civil Aviation Organization (ICAO) has developed such definitive guidelines through Annex 9 of its Aircraft General Declaration.
4. *Proposals to permit inspections and enforce sanitary measures should, again, be strictly defined.* Commercial air services providers require reasonable assurances as to the circumstances, degrees and limits of such inspections to ensure their operational integrity. As presently worded, the NPRM does not permit carriers to develop potential mitigation strategies to deal with such inspections. ATAC

suggests that CDC coordinate its own authorities in this area with those given to other federal agencies (e.g. FDA) to limit the operational impact of this measure and that it form an airline working group to develop a Memorandum of Understanding outlining procedures, as well rights roles and responsibilities in such eventualities.

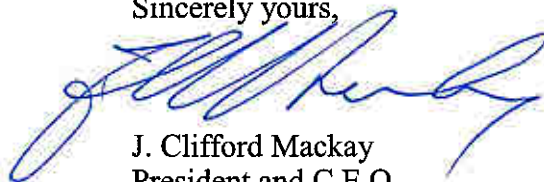
PROPOSED SOLUTION

Fundamentally, the CDC is pursuing a laudable public policy objective. However, as with all such initiatives, the unintended consequences can undermine both the direct policy objective as well as the efficacy of other policy objectives (i.e. the economic importance of efficient, affordable commercial air services). Rightfully then, the most appropriate approach to the development of such policies is a coordinated, consultative and fully-funded approach which recognizes the shared societal responsibilities and benefits from protecting public health.

As integrated global markets increase the pace, volume and reach of international passenger travel, it behoves all stakeholders to develop coordinated approaches which complement our broad and shared objective of protecting and promoting the development of healthy citizens and healthy economies. ATAC commits itself to working with the CDC towards the achievement of this goal.

Thank you for the opportunity to comment on this important measure. We are ready and able to provide further information or clarification, as may be required.

Sincerely yours,



J. Clifford Mackay  
President and C.E.O

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